

1 **Research Guide: Motion for Early Termination of Probation**  
2 **Law Library for San Bernardino County**

3 Research Guide, [www.sblawlibrary.org](http://www.sblawlibrary.org), (909) 885-3020.

4 **Disclaimer**

5 The information in this research guide is intended to assist patrons with their legal research and is in  
6 no way intended to replace the counsel of an Attorney. Any decisions about how to proceed must be  
7 determined by the patron. The library staff can recommend and refer you to print and web-based  
8 resources that will help you find answers to your law-related questions. The staff at the Law Library  
9 for San Bernardino County cannot explain or interpret the law itself and we are not permitted to give  
10 legal advice.

11 **I want to terminate my probation early. Do I have any options?**

12 According to California Penal Code § 1203.3, the court has authority at any time during the  
13 probation period to revoke, modify, change or terminate the period of probation.

14 Penal Code § 1203.3

15 (a) The court shall have authority at any time during the term of probation to revoke,  
16 modify, or change its order of suspension of imposition or execution of sentence. The  
17 court may at any time when the ends of justice will be subserved thereby, and when the  
18 good conduct and reform of the person so held on probation shall warrant it, terminate the  
19 period of probation, and discharge the person so held.

20 The full text of the code can reviewed at the law library or online at [www.leginfo.ca.gov](http://www.leginfo.ca.gov).

21 **Is there a form for this procedure?**

22 The Judicial Council has not provided a form for mandatory or optional use for this procedure.

23 **There is no form available, now what?**

24 When there is no Judicial Council Form available this usually means that you have to draft your  
25 own form. The Judicial Council has created an information guide to help you understand the  
26 [Basics of Court Forms](http://www.courts.ca.gov/1078.htm) at <http://www.courts.ca.gov/1078.htm>.

27 **How do I draft my own form?**

28 First you need to do some research to see what the law says you can and cannot do. Based on the  
law you can decide if the courts have provided a remedy for your legal situation. Usually this  
means drafting a motion with all of the necessary parts.

For more information about motions see

<http://www.sblawlibrary.org/uploads/7/3/1/1/7311175/sbellwhatisamotion.pdf>

For information on how to draft your own pleading form see our guide on [Forms](#) at

<http://www.sblawlibrary.org/uploads/7/3/1/1/7311175/sbellforms.pdf>.

## 1 **So how do I draft a Motion for Early Termination of Probation?**

2 A sample of what a Motion might look like is provided below. But you will have to decide  
3 whether the sample is the correct form for your situation. You may need to modify the forms for  
4 your specific case. Blank Pleading paper is available at <http://www.sblawlibrary.org/forms.html>.

## 5 **What are the different parts of the motion?**

- 6 ➤ Generally, the **Notice of Motion** tells the court what you want to do. In other words, it  
7 notifies the court of the action you want the court to take.
- 8 ➤ The **Memorandum of Points and Authorities** tells the court the law or authority you are  
9 relying on for your motion request.
- 10 ➤ In the **Declaration** you should tell the court how you have fulfilled the terms of the law.  
11 Provide your statement of the facts and how they relate to your motion.
- 12 ➤ The **Proposed Order** is for the judge to sign. Generally, the order is the document that  
13 allows your probation to be terminated.

## 14 **What do I do after I draft my forms?**

15 Once you have drafted the forms to your specifications you can file them with the court.  
16 Typically, the clerk will assign a hearing date for your motion. You will need to serve the  
17 District Attorney and the Probation Department and file a **Proof of Service**. Some courts will  
18 serve the papers for you.

19 For information about service of papers and proof of service, please refer to one of the following  
20 research guides:

- 21 ➤ *Personal Service of Court Papers*, published by the Sacramento County Public Law  
22 Library, <http://www.saclaw.org/Uploads/files/Step-by-Step/PersonalService.pdf>
- 23 ➤ *Proof of Service by Mail*, published by the Sacramento County Public Law Library,  
24 <http://www.saclaw.org/pages/pos-mail.aspx>
- 25 ➤ *Service of Notice and Other Papers*, published by the San Diego County Public Law  
26 Library,  
27 [http://www.sdcpll.org/resources/guides/Service\\_of\\_Notice\\_and\\_Other\\_Papers.pdf](http://www.sdcpll.org/resources/guides/Service_of_Notice_and_Other_Papers.pdf)
- 28 ➤ Proof of Service Forms, <http://courts.ca.gov/forms.htm?filter=POS>

## 29 **Additional Resources for Reference**

30 For additional information please review the following resource at the law library:

31 *California Criminal, Practice, Motions, Jury Instructions and Sentencing*, 3<sup>rd</sup> edition, volume 5,  
32 chapter 58 on Probation.

33 *Criminal Defense Practice Guide*, published by Matthew Bender. See volume 7 for the index.

34 *Cleaning Up Your Record*, <http://courts.ca.gov/1070.htm>, published by the Judicial Council.

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Defendant in Pro Per

IN THE SAN BERNARDINO SUPERIOR COURT

STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

\_\_\_\_\_,  
Defendant.

) Case No.: \_\_\_\_\_

)

) NOTICE OF MOTION TO TERMINATE  
) PROBATION PURSUANT TO PENAL  
) CODE 1203.3. SUPPORTING  
) MEMORANDUM OF POINTS AND  
) AUTHORITIES AND SUPPORTING  
) DECLARATION

)

) Date: \_\_\_\_\_

) Time: \_\_\_\_\_

) Dept: \_\_\_\_\_

\_\_\_\_\_

NOTICE OF MOTION

TO THE ABOVE ENTITLED COURT AND TO THE DISTRICT ATTORNEY OF  
SAN BERNARDINO COUNTY: NOTICE IS HEREBY GIVEN that on \_\_\_\_\_, at the  
hour of \_\_\_\_\_ in the above entitled Court, Defendant, \_\_\_\_\_, will  
move this court for an order declaring a termination of probation.

This motion is made on the grounds that Defendant has fulfilled all the terms of  
probation, has paid all required fines and fees, and has no subsequent criminal record.

Dated: \_\_\_\_\_.

Respectfully Submitted,  
By: \_\_\_\_\_

1 **SUPPORTING MEMORANDUM OF POINTS AND AUTHORITIES FOR MOTION TO**  
2 **TERMINATE PROBATION PURSUANT TO PENAL CODE 1203.3**

3 Defendant submits the following points and authorities in support of the motion to terminate  
4 probation:  
5

6 **I. THE COURT HAS AUTHORITY TO MODIFY PROBATION AT ANY TIME**  
7 **DURING THE PROBATIONARY TERM**

8 Penal Code § 1203.3 provides in part:  
9

- 10 (a) The court shall have authority at any time during the term of probation to revoke,  
11 modify, or change its order of suspension of imposition or execution of sentence.  
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13 The trial court is therefore authorized, during the time of probation, upon proper showing, to  
14 modify probation. People v. Cookson, 54 Cal. 3d 1091, 1098-1099 (1991); People v. Marin, 147  
15 Cal. App. 2d 625, 627 (1957).  
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1                   **DECLARATION IN SUPPORT OF MOTION TO TERMINATE PROBATION**

2 I, \_\_\_\_\_, declare:

3 I am the defendant in the above-entitled case.

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24 I declare under penalty of perjury that the foregoing is true and correct.  
Executed on \_\_\_\_\_, at \_\_\_\_\_, California.

25 Dated: \_\_\_\_\_

Respectfully Submitted,

26 By: \_\_\_\_\_

27 Defendant

28

